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6 Attorneys for Plaintiff
7 United States of America

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

| | | |
|--------------------------------|---|------------------------------------|
| 10 UNITED STATES OF AMERICA, |) | Criminal Case No. 08CR0212-JLS |
| |) | |
| 11 Plaintiff, |) | STIPULATION AND JOINT MOTION |
| |) | FOR RELEASE OF MATERIAL |
| 12 v. |) | <u>WITNESSES AND ORDER THEREON</u> |
| |) | |
| 13 JUAN JOSE AGUIRRE-CRUZ (2), |) | |
| |) | |
| 14 Defendant. |) | |

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16 IT IS HEREBY STIPULATED AND AGREED between the Plaintiff, UNITED STATES
17 OF AMERICA, through its counsel, Karen P. Hewitt, United States Attorney, and Paul L. Starita,
18 Assistant U.S. Attorney, and Defendant JOSE LUIS QUINTERO-ARIAS, through his defense
19 counsel, Stephen D. Demik, Esq., Federal Defenders of San Diego, Inc., that:

20 1. Pursuant to a Plea Agreement, Defendant agrees to plead guilty to Count 8 of the
21 Superseding Indictment in Criminal Case No. 08CR0212-JLS charging Defendant with
22 transportation of illegal aliens in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

23 2. There are three material witnesses in this case – (1) Victor Manuel Ayon-Lizarraga,
24 (2) Carlos Jodin Villegas-Hernandez, and (3) Ramon Silva-Reyes – whose testimony is material if
25 this case proceeded to trial. As discussed further, the parties stipulate that the two material witnesses
26 would testify to facts relevant to the charges and such testimony would be admissible at trial as
27 statements against interest of an unavailable witness under Fed. R. Evid. 804(b)(3), and Defendant
28

1 agrees to waive any confrontation clause challenge under Crawford v. Washington, 524 U.S. 36
2 (2004).

3 3. Material witness # 1, Victor Manuel Ayon-Lizarraga, in this case:

- 4 a. Is an alien with no legal right to enter or remain in the United States;
- 5 b. Is a Mexican citizen from Candelaria, Sinaloa, Mexico;
- 6 c. Defendant guided him and the two other material witnesses into the United
7 States from Mexico;
- 8 d. Was to pay \$2,800 to be smuggled to a destination within the United States,
9 namely Los Angeles, California; and
- 10 e. May be released to the United States Department of Homeland Security for
11 return to his country of origin.

12 4. Material witness # 2, Carlos Jodin Villegas-Hernandez, in this case:

- 13 a. Is an alien with no legal right to enter or remain in the United States;
- 14 b. Is a Mexican citizen from Michoacan, Mexico;
- 15 c. Defendant guided him and the two other material witnesses into the United
16 States from Mexico;
- 17 d. Was to pay \$2,800 to be smuggled to a destination within the United States;
18 and
- 19 e. May be released to the United States Department of Homeland Security for
20 return to his country of origin.

21 5. Material witness # 3, Ramon Silva-Reyes, in this case:

- 22 a. Is an alien with no legal right to enter or remain in the United States;
- 23 b. Is a Mexican citizen from Guanajuato, Mexico;
- 24 c. Defendant guided him and the other material witness into the United States
25 from Mexico;
- 26 d. Was to pay \$2,800 to be smuggled to a destination within the United States,
27 namely Los Angeles, California; and

1 f. May be released to the United States Department of Homeland Security for
2 return to his country of origin.

3 After the material witnesses are ordered released by the Court pursuant to this
4 stipulation and joint motion, if the Defendant withdraws his guilty plea before the plea is accepted
5 by the District Court, the Defendant agrees that, in any proceeding including, but not limited to,
6 motions hearings, trial, sentencing, appeal, or collateral attack, that:

7 a. The stipulated facts set forth above shall be admitted as substantive evidence;

8 b. The United States may elicit hearsay testimony from arresting agents
9 regarding any statements made by the material witnesses provided in
10 discovery, and such testimony shall be admitted as substantive evidence
11 under Fed. R. Evid. 804(b)(3) as statements against interest of an unavailable
12 witness; and

13 c. Understanding that, under Crawford v. Washington, 524 U.S. 36 (2004),
14 testimonial hearsay statements are not admissible against a defendant
15 unless the defendant confronted and cross examined the witness who made
16 the testimonial hearsay statements, Defendant waives the right to confront
17 and cross examine the material witnesses in this case.

18 Based on the foregoing, the parties jointly move the stipulation into evidence and move for
19 the immediate release of the above-named material witnesses for return to their respective country
20 of origin.

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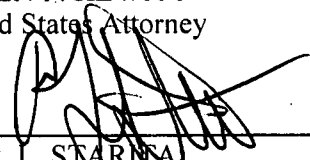
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1 It is so STIPULATED AND AGREED.

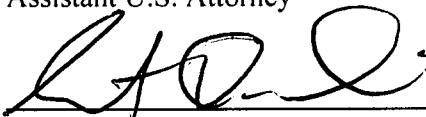
2 Respectfully submitted,

3 KAREN P. HEWITT
4 United States Attorney

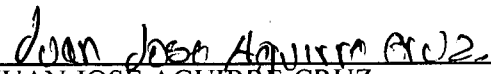
5 Dated: 6/19/08

6 
7 PAUL L. STARNA
8 Assistant U.S. Attorney

9 Dated: 6/19/08

10 
11 STEPHEN D. DEMIK
12 Federal Defenders of San Diego, Inc.
13 Defense Counsel

14 Dated: 6/19/08

15 
16 JUAN JOSE AGUIRRE-CRUZ
17 Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN JOSE AGUIRRE-CRUZ (2),

Defendant.

Criminal Case No. 08CR0212-JLS

ORDER ADMITTING STIPULATION
INTO EVIDENCE AND RELEASE
OF MATERIAL WITNESSES

Upon the Stipulation and Joint Motion of the parties and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the material witnesses be released and remanded to the United States
Department of Homeland Security for return to their respective country of origin.

SO ORDERED.

Dated: 6-19-08


United States Magistrate Judge